UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

ORLANDO PRICE, et al. :

: CASE NO. 1:08-CV-1860 (1:07-CV-1257)

Plaintiffs,

vs. : OPINION & ORDER

: [Resolving Doc. Nos. <u>35</u>, <u>39.</u>]

EQUIFIRST CORPORATION, et al.

:

Defendants. :

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Before the Court is a Rule 60(a) motion to vacate judgment filed by Plaintiffs Orlando and Darlene Price (collectively, the "Plaintiffs"). [Doc. 35.] According to the Plaintiffs, a clerical error was made when the Court initially dismissed their case *with prejudice* following settlement on August 2, 2007. [Id. at 5; see also Doc. 27.] The Plaintiffs contend that, in accordance with the parties' agreement, the case should have been dismissed *without prejudice*, thereby allowing the Plaintiffs to refile their claims. Defendants HSBC Mortgage Corporation (USA) and HSBC Mortgage Services, Inc. (collectively, "HSBC") acknowledge "that dismissal of the case with prejudice appears to have been the result of a clerical error." [Doc. 39 at 1.] Defendant EquiFirst Corporation has not responded.

The Court **GRANTS** the Plaintiffs' Rule 60(a) motion to vacate judgment and alters the

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August 2, 2007 judgment to reflect the fact that the earlier case should have been dismissed *without* prejudice.

IT IS SO ORDERED.

Dated: March 23, 2009 <u>s/</u> James S. Gwin

JAMES S. GWIN UNITED STATES DISTRICT JUDGE